

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1826

**Introduced by Assembly Member Chesbro
(Coauthors: Assembly Members Gordon, Skinner, Ting, and
Williams)**

February 18, 2014

An act to add Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Chesbro. Solid waste: organic waste.

(1) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program that requires each county and city and county to prepare and submit to the ~~Department of Resources Recycling and Recovery~~ *department* a countywide integrated waste management plan. The act requires a business, which is defined as a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more, to arrange for recycling services. Existing law also requires jurisdictions to implement a commercial solid waste recycling program meeting specified elements.

This bill would require a business that generates a specified amount of organic waste per week to arrange for recycling services for that organic waste in a specified manner. The bill would decrease the amount of organic waste under which a business would be subject to those requirements from 8 cubic yards or more during 2016 to 4 cubic yards *or more during 2017 and 2018 and to one cubic yard or more on and after January 1, 2019. 2017. The bill would also require a business that generates 4 cubic yards or more of commercial solid waste per week, on and after January 1, 2019, to arrange for organic waste recycling services and would decrease that amount to 2 cubic yards, if the department makes a specified determination on or after January 1, 2020.*

This bill would require ~~a business, when arranging for the contract or work agreement between a business and a gardening or landscaping services,~~ service to require the organic waste generated by those services to comply with the requirements of this act.

This bill would require each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert organic waste from the businesses subject to this act, *except as specified with regard to rural jurisdictions*, thereby imposing a state-mandated local program by imposing new duties on local government agencies. The bill would require each jurisdiction to report to the department on its progress in implementing the organic waste recycling program, and the department would be required to review whether a jurisdiction is in compliance with this act.

This bill would authorize a ~~local government~~ *governmental* agency to charge and collect a fee from an organic waste generator to recover the ~~local government~~ *governmental* agency's costs incurred in complying with this act.

This bill would require the department to identify and recommend actions to address permitting and siting challenges and to encourage the continued viability of the state's organic waste processing and recycling infrastructure, in partnership with the California Environmental Protection Agency and other specified state and regional agencies. The bill also would require the department to cooperate with local jurisdictions and industry to provide assistance and incentives for increasing the feasibility of organic waste ~~recycling~~ *recycling and to identify certain financing mechanisms and funding incentives and post this information on its Internet Web site.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 12.9 (commencing with Section 42649.8) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 12.9. RECYCLING OF ORGANIC WASTE

42649.8. For purposes of this chapter, the following terms shall apply:

(a) “Business” means a commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily residential dwelling.

(b) “Commercial waste generator” means a business subject to subdivision (a) of Section 42649.2.

(c) “Organic waste” means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled ~~paper~~ paper waste that is mixed in with food waste.

(d) “Organic waste generator” means a business subject to subdivision (a) of Section 42649.81.

(e) For purposes of this section “organic waste recycling facility” means a facility that meets the definition of a compostable handling operation or facility that is defined in paragraph (12) of subdivision (a) of Section 17852 of Title 14 of the California Code of Regulations.

(f) “Rural jurisdiction” means a jurisdiction that is located entirely within one or more rural counties, or a regional agency comprised of jurisdictions that are located within one or more rural counties.

(g) “Rural county” means a county that has a total population of less than 100,000 persons.

1 (e)

2 (h) “Self-hauler” means a business that hauls its own waste
3 rather than contracting for that ~~service~~. *service and “self-haul”*
4 *means to act as a self-hauler.*

5 42649.81. (a) (1) On and after January 1, 2016, a business
6 that generates eight cubic yards or more of organic waste per week
7 shall arrange for recycling services specifically for organic waste
8 in the manner specified in subdivision (b).

9 (2) On and after January 1, 2017, a business that generates four
10 cubic yards or more of organic waste per week shall arrange for
11 recycling services specifically for organic waste in the manner
12 specified in subdivision (b).

13 (3) On and after January 1, 2019, a business that generates at
14 ~~least one cubic yard of organic waste~~ *four cubic yards or more of*
15 *commercial solid waste, as defined in Section 42469.1, per week,*
16 shall arrange for recycling services specifically for organic waste
17 in the manner specified in subdivision (b).

18 (4) *On or after January 1, 2020, if the department determines*
19 *that statewide disposal of organic waste has not decreased by 50*
20 *percent from the level of disposal of during 2014, a business that*
21 *generates two cubic yards or more per week of commercial solid*
22 *waste shall arrange for the organic waste recycling services*
23 *specified in paragraph (3), unless the department determines that*
24 *this requirement will not result in significant additional reductions*
25 *of organics disposal.*

26 (5) *A business located in a rural jurisdiction that is exempted*
27 *pursuant to paragraph (2) of subdivision (a) of Section 42649.82*
28 *is not subject to this chapter.*

29 (b) A business subject to subdivision (a) shall take at least one
30 of the following actions:

31 ~~(1) Source separate organic waste from other solid waste and~~
32 ~~subscribe to a basic level of organic waste recycling service that~~
33 ~~includes collection, self-hauling, or other arrangements for the~~
34 ~~collection and recycling of the organic waste, including managing~~
35 ~~it onsite or at another site owned and managed by the generator.~~

36 ~~(2) Subscribe to an organic waste recycling service that may~~
37 ~~include mixed waste processing that specifically recycles organic~~
38 ~~waste.~~

39 *(1) Source separate organic waste from other waste and*
40 *subscribe to a basic level of organic waste recycling service.*

1 (2) *Source separate organic waste from other solid waste and*
2 *manage its organic waste onsite or self-haul its own organic waste.*

3 (3) *Subscribe to an organic waste recycling service that may*
4 *include mixed waste processing that specifically recycles organic*
5 *waste.*

6 (4) *Make other arrangements consistent with paragraph (3) of*
7 *subdivision (b) of Section 42469.84.*

8 (c) A business that is a property owner may require a lessee or
9 tenant of that property to source separate their organic waste to
10 aid in compliance with this section.

11 (d) A business generating organic waste shall arrange for the
12 recycling services required by this section in a manner that is
13 consistent with state and local laws and requirements, including a
14 local ordinance or *local jurisdiction's franchise* agreement,
15 applicable to the collection, handling, or recycling of solid and
16 organic waste.

17 (e) When arranging for gardening or landscaping services, ~~a the~~
18 ~~contract or work agreement between a~~ business subject to this
19 section ~~and a gardening or landscaping service~~ shall require the
20 organic waste generated by those services to be managed in
21 compliance with this chapter.

22 (f) (1) A multifamily residential dwelling that consists of fewer
23 than five units is not a business for purposes of this chapter.

24 (2) ~~For purposes of determining whether a~~ A business that is a
25 multifamily dwelling is *not* required to ~~comply with this section;~~
26 ~~the~~ *arrange for the organic waste recycling services specified in*
27 *subdivision (b) for food waste that is generated by the residents of*
28 ~~the multifamily dwelling shall not be included in determining the~~
29 ~~amount of organic waste generated by that business and that food~~
30 ~~waste also shall not be subject to the requirements of this section.~~
31 *business.*

32 (g) *If separate organic waste collection and recycling services*
33 *are not offered through a local ordinance or local jurisdiction's*
34 *franchise agreement, a business generating organic waste may*
35 *arrange for separate organic waste collection and recycling*
36 *services, until the local ordinance or local jurisdiction's franchise*
37 *agreement includes organic waste recycling services.*

38 42649.82. (a) (1) In addition to the requirements of Section
39 42649.3, on and after January 1, 2016, each jurisdiction shall
40 implement an organic waste recycling program that is appropriate

1 for that jurisdiction and designed specifically to divert organic
2 waste generated by businesses subject to Section 42649.81, whether
3 or not the jurisdiction has met the requirements of Section 41780.

4 (2) (A) *A county board of supervisors of a rural county may*
5 *adopt a resolution, as prescribed in this paragraph, to make the*
6 *rural county exempt from the requirements of this section. If a*
7 *rural jurisdiction is a city, the city council may adopt a resolution,*
8 *as prescribed in this paragraph, to make the rural jurisdiction*
9 *exempt from this section. If a rural jurisdiction is a regional agency*
10 *comprised of jurisdictions that are located entirely within one or*
11 *more rural counties, the board of the regional agency may adopt*
12 *a resolution, as prescribed in this paragraph, to make the rural*
13 *jurisdiction is exempt from the requirements of this section.*

14 (B) *A resolution adopted pursuant to subparagraph shall include*
15 *findings as to the purpose of and need for the exemption.*

16 (C) *A resolution to exempt a rural jurisdiction pursuant to*
17 *subparagraph (A) shall be submitted to the department at least six*
18 *months prior to the operative date of the exemption.*

19 (D) *On or after January 1, 2020, if the department determines*
20 *that statewide disposal of organic waste has not been reduced to*
21 *50 percent of the level of disposal during the 2014 calendar year,*
22 *all exemptions authorized by this paragraph shall terminate unless*
23 *the department determines that applying this chapter to rural*
24 *jurisdictions will not result in significant additional reductions of*
25 *disposal of organic waste.*

26 (b) If a jurisdiction, as of January 1, 2016, has in place an
27 organic waste recycling program that meets the requirements of
28 this section, it is not required to implement a new or expanded
29 organic waste recycling program.

30 (c) The organic waste recycling program required by this section
31 shall be directed at organic waste generators and may include, but
32 is not limited to, one or more of the following:

33 (1) Implementing a mandatory commercial organic waste
34 recycling policy or ordinance that addresses organic waste
35 recycling.

36 (2) Requiring a mandatory commercial organic waste recycling
37 program through a franchise contract or agreement.

38 (3) Requiring organic waste to go through a source separated
39 or mixed processing system that diverts material from disposal.

(d) The organic waste recycling program shall do all of the following:

(1) Identify all of the following:

(A) Existing organic waste recycling facilities within a reasonable vicinity and the capacities available for materials to be accepted at each facility.

~~(B) Facilities for potential expansion or collocation.~~

(B) Existing solid waste and organic waste recycling facilities within the jurisdiction that may be suitable for potential expansion or colocation of organic waste processing or recycling facilities.

(C) Efforts of which the jurisdiction is aware that are underway to develop new private or public regional organic waste recycling facilities that may serve some or all of the organic waste recycling needs of the commercial waste generators within the jurisdiction subject to this chapter, and the anticipated timeframe for completion of those facilities.

~~(C)~~

(D) Closed or abandoned sites that might be available for new organic waste recycling facilities.

~~(D)~~

(E) Other nondisposal opportunities and markets.

~~(E)~~

(F) Appropriate zoning and permit requirements for the location of new organic waste recycling facilities.

~~(F)~~

~~(G) Incentives available available, if any, for developing new organic waste recycling facilities.~~ *facilities within the jurisdiction.*

(2) Identify barriers to siting new or expanded organic waste recycling facilities and specify a plan to remedy those barriers that are within the control of the local jurisdiction.

(3) Provide for the education of, outreach to, and monitoring of, businesses. The program shall require the jurisdiction to notify a business if the business is not in compliance with Section 42649.81.

(e) The organic waste recycling program may include any one or more of the following:

(1) Enforcement provisions that are consistent with the jurisdiction's authority, including a structure for fines and penalties.

(2) Certification requirements for self-haulers.

(3) Exemptions, on a case-by-case basis, from the requirements of Section 42649.81 that are deemed appropriate by the jurisdiction for either any of the following reasons:

(A) Lack of sufficient space in multifamily complexes or businesses to provide additional organic material recycling bins.

(B) The current implementation by a business of actions that result in the recycling of a significant portion of its organic waste.

(C) *The business or group of businesses does not generate at least one-half of a cubic yard of organic waste per week.*

(D) *Limited-term exemptions for extraordinary and unforeseen events.*

(f) (1) Each jurisdiction shall provide the department with information on the number of regulated businesses that generate organic waste and, if available, the number that are recycling organic waste. The jurisdiction shall include this information as part of the annual report required pursuant to Section 41821.

(2) On and after August 1, 2017, in addition to the information required by paragraph (1), each jurisdiction shall report to the department on the progress achieved in implementing its organic waste recycling program, including education, outreach, identification, and monitoring, on its rationale for allowing exemptions, and, if applicable, on enforcement efforts. The jurisdiction shall include this information as part of the annual report required pursuant to Section 41821.

(g) (1) The department shall review a jurisdiction's compliance with this section as part of the department's review required by Section 41825.

(2) The department also may review whether a jurisdiction is in compliance with this section at any time that the department receives information that a jurisdiction has not implemented, or is not making a good faith effort to implement, an organic waste recycling program.

(h) During a review pursuant to subdivision (g), the department shall determine whether the jurisdiction has made a good faith effort to implement its selected organic waste recycling program. For purposes of this section, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement its organic waste recycling program. During its review, the department may include, but is not limited to, consideration of the following factors in its evaluation of a jurisdiction's good faith effort:

1 (1) The extent to which businesses have complied with Section
2 42649.81, including information on the amount of disposal that is
3 being diverted from the businesses, if available, and on the number
4 of businesses that are complying with Section 42649.81.

5 (2) The recovery rate of the organic waste from the material
6 recovery facilities that are utilized by the businesses, all
7 information, methods, and calculations, and any additional
8 performance data, as requested by the department from the material
9 recovery facilities pursuant to Section 18809.4 of Title 14 of the
10 California Code of Regulations.

11 (3) The extent to which the jurisdiction is conducting education
12 and outreach to businesses.

13 (4) The extent to which the jurisdiction is monitoring businesses
14 and notifying those businesses that are not in compliance.

15 (5) The appropriateness of exemptions allowed by the
16 jurisdiction.

17 (6) The availability of markets for collected organic waste
18 recyclables.

19 (7) Budgetary constraints.

20 (8) In the case of a rural jurisdiction, the effects of small
21 geographic size, low population density, or distance to markets.

22 (9) ~~The availability of~~ *availability, or lack thereof, of sufficient*
23 *organic waste processing infrastructure*, organic waste recycling
24 facilities and other nondisposal opportunities and markets.

25 (10) The extent to which the jurisdiction has taken steps that
26 are under its control to remove barriers to siting and expanding
27 organic waste recycling facilities.

28 42649.83. (a) If a jurisdiction adds or expands an organic
29 waste recycling program to meet the requirements of Section
30 42649.82, the jurisdiction shall not be required to revise its source
31 reduction and recycling element or obtain the department's
32 approval pursuant to Article 1 (commencing with Section 41800)
33 of Chapter 7 of Part 2.

34 (b) If an addition or expansion of a jurisdiction's organic waste
35 recycling program is necessary, the jurisdiction shall include this
36 information in the annual report required pursuant to Section
37 41821.

38 42649.84. (a) This chapter does not limit the authority of a
39 ~~local-government~~ *governmental* agency to adopt, implement, or
40 enforce a local organic waste recycling ~~requirement~~ *requirement*,

1 *or a condition imposed upon a self-hauler, that is more stringent*
2 *or comprehensive than the requirements of this chapter.*

3 (b) This chapter does not modify, limit, or abrogate in any
4 manner any of the following:

5 (1) A franchise granted or extended by a city, county, city and
6 county, or other local ~~government~~ governmental agency.

7 (2) A contract, license, or permit to collect solid waste
8 previously granted or extended by a city, county, city or county,
9 or other local ~~government~~ governmental agency.

10 (3) The existing right of a business to sell or donate its recyclable
11 organic waste materials.

12 (c) *Notwithstanding any other requirement of this chapter,*
13 *nothing in this chapter modifies, limits, or abrogates the authority*
14 *of a local jurisdiction with respect to land use, zoning, or facility*
15 *siting decisions by or within that local jurisdiction.*

16 42649.85. A local ~~government~~ governmental agency may
17 charge and collect a fee from an organic waste generator to recover
18 the local ~~government~~ governmental agency's costs incurred in
19 complying with this chapter.

20 42649.86. (a) The department shall identify and recommend
21 actions to address, with regard to both state agencies and the federal
22 government, the permitting and siting challenges associated with
23 composting and anaerobic digestion, and to encourage the
24 continued viability of the state's organic waste processing and
25 recycling infrastructure, in partnership with the California
26 Environmental Protection Agency and other state and regional
27 agencies. These other state and regional agencies shall include,
28 but are not limited to, the State Air Resources Board, the State
29 Energy Resources Conservation and Development Commission,
30 the Public Utilities Commission, the Department of Food and
31 Agriculture, the State Water Resources Control Board, California
32 regional water quality control boards, and air pollution control and
33 air quality management districts.

34 (b) The department shall cooperate with local government
35 agencies and industry to provide assistance and incentives for
36 increasing the feasibility of organic recycling by promoting
37 processing opportunities and the development of new infrastructure
38 of sufficient capacity to meet the needs of generators, and
39 developing sufficient end-use markets throughout the state for the
40 quantity of organic waste required to be diverted.

1 (c) *The department shall identify and post on its Internet Web*
2 *site financing mechanisms and funding incentives that are available*
3 *for in-state development of organic waste infrastructure to help*
4 *the state achieve its greenhouse gas reduction goals and waste*
5 *reduction goals.*

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 a local agency or school district has the authority to levy service
9 charges, fees, or assessments sufficient to pay for the program or
10 level of service mandated by this act, within the meaning of Section
11 17556 of the Government Code.